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8 Litigation Practice Group P.C.

9
10 **UNITED STATES BANKRUPTCY COURT**

11 **CENTRAL DISTRICT OF CALIFORNIA (SANTA ANA DIVISION)**

12
13 In re:

14 THE LITIGATION PRACTICE GROUP, PC,

15 Debtor.

Case No. 8:23-bk-10571-SC

Chapter 11

16 **NOTICE OF MOTION AND MOTION BY**
17 **CHAPTER 11 TRUSTEE TO FILE EXHIBIT**
18 **“A” TO THE NOTICE OF ASSUMPTION**
19 **AND ASSIGNMENT OF CONTRACTS**
20 **WITH CONSUMER CLIENTS OF THE**
21 **LITIGATION PRACTICE GROUP, P.C.**
22 **LISTING ALL CONSUMER CLIENTS**
23 **UNDER SEAL**

24 Date: *[No Hearing Required]*

Time: *[No Hearing Required]*

Judge: Hon. Scott C. Clarkson

Place: Courtroom 5C

411 W. Fourth Street

Santa Ana, California 92701

1 **TO THE HONORABLE SCOTT C. CLARKSON, UNITED STATES BANKRUPTCY**
2 **JUDGE, THE OFFICE OF THE UNITED STATES TRUSTEE, AND OTHER PARTIES IN**
3 **INTEREST:**

4 **PLEASE TAKE NOTICE** that, on October 27, 2023, Richard A. Marshack, Chapter 11
5 Trustee in the above-referenced bankruptcy case, filed with the United States Bankruptcy Court, Santa
6 Ana Division, located at 411 West Fourth Street, Santa Ana, California 92701, the Honorable Scott C.
7 Clarkson, United States Bankruptcy Judge, presiding, this *Notice of Motion and Motion to File Exhibit*
8 *“A” to the Notice of Assumption and Assignment of Contracts with Consumer Clients of the Litigation*
9 *Practice Group, P.C. Listing all Consumer Clients Under Seal* (the “Motion”). The Motion is made
10 pursuant to 11 U.S.C. section 107 and L.B.R. 5003(c)(1). Specifically, the Trustee seeks an order
11 providing that:

12 1. **Trustee is authorized to file Exhibit “A” to the Notice of Assumption and**
13 **Assignment of Contracts with Consumer Clients of the Litigation Practice Group, P.C., under**
14 **seal.**

15 2. **Exhibit “A” to the Notice of Assumption and Assignment of Contracts with**
16 **Consumer Clients of the Litigation Practice Group, P.C. will remain under seal by the Court**
17 **indefinitely, and will only be available to the Court, the United States Trustee, bankruptcy**
18 **administrator, trustee, and any auditor serving under section 586(f) of title 28, as set forth in 11**
19 **U.S.C. section 107(c)(3).**

20 **PLEASE TAKE FURTHER NOTICE** that pursuant to L.B.R. 9013-1(p) the Court may
21 **grant this Motion without a hearing.**

22
23 Dated: October 27, 2023

Respectfully submitted,

DINSMORE & SHOHL LLP

24
25
26 By: /s/ Christopher B. Ghio

CHRISTOPHER B. GHIO

JEREMY B. FREEDMAN

27 Special Counsel to Richard A. Marshack,
28 Chapter 11 Trustee

MEMORANDUM OF POINTS AND AUTHORITIES

I.

INTRODUCTION

This proceeding arises in the bankruptcy case *In re The Litigation Practice Group, P.C.*, Case No. 8:23-bk-10571-SC (the “Case”), which was commenced on March 20, 2023 (“Petition Date”), when debtor The Litigation Practice Group, P.C. (“Debtor”) filed a voluntary petition under Chapter 11 of Title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Central District of California (the “Court”).

RICHARD A. MARSHACK is the Chapter 11 Trustee (“Trustee”) in the above-referenced bankruptcy case.

Pursuant to the Court’s Order (A) Approving Sale of Assets Free and Clear of All Liens, Claims, Encumbrances and Interests Pursuant to 11 USC § 363(b), (B) Approving Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, and (C) Granting Related Relief [Dkt. No. 352] (the “Sale Order”), Trustee is required to give notice of potential assumption and assignment of the Debtor’s contracts with its consumer clients (the “Notice of Assumption – Consumer Contracts”) in connection with the sale to the buyer identified in the Sale Order (the “Sale”).

Exhibit “A” to the Notice of Assumption – Consumer Contracts contains the names and cure amounts, if any, for each of the Debtor’s consumer clients who, to date, have failed to respond to Morning Law Group, P.C., the buyer pursuant to the Sale Order (the “Buyer”), by opting out of the Sale or by executing a new, reformed legal services agreement with the Buyer.

Thus, because of the sensitive nature of this matter and upon consultation with the Buyer and the Court-Appointed Monitor, Nancy Rapoport [Dkt. 363], the Trustee brings this Motion to file under seal Exhibit “A” to the Notice of Assumption – Consumer Clients.

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II.

11 U.S.C. § 107 AND LBR 5003(C)(1) AUTHORIZE SEALING EXHIBIT “A”

Local Bankruptcy Rules state the following related to applications for filing documents under seal:

5003(c)(1). Filing Under Seal. Subject to 11 U.S.C. § 107, a document may not be filed under seal without a prior written order of the court. If a filing under seal is requested, a written motion requesting such relief and a proposed order must be presented to the judge in the manner set forth in The Central Guide.

The Central Guide states the following related to application for filing documents under seal:

5003-2(c): Confidential Documents: Court Permission to File Under Seal. No documents may be presented to the Court for filing under seal unless and until the court has granted a motion authorizing the filing of such documents under seal. All motions for authority to file documents under seal must be filed electronically, if the filer is an attorney.

1. The motion should include as exhibits, or in a separate appendix also filed electronically, the documents that the movant seeks to file under seal with the confidential portions redacted; provided, however, that, if the documents are voluminous, the motion may be accompanied by a declaration under penalty of perjury to this effect and a schedule of the documents that movant seeks to file under seal.

2. The motion must describe the nature of the information that the party asserts is confidential (without disclosing the confidential information) and explain why the information should not be publicly disclosed.

3. If and when the court grants the motion for authority to file documents under seal, unredacted versions of the documents, together with an entered copy of the order authorizing the sealed filing, should be presented for filing under seal in the manner directed by the court in its order authorizing the filing under seal.

11 U.S.C. Section 107 states:

(c)

(1) The bankruptcy court, for cause, may protect an individual, with respect to the following types of information to the extent the court finds that disclosure of such information would create an undue risk of identity theft or other unlawful injury to the individual or the individual's property:

///

(A) Any means of identification (as defined in section 1028(d) of title 18) contained in a paper filed, or to be filed, in a case under this title.

18 U.S.C. Section 1028(d) states:

(7) The term “means of identification” means any name or number that may be used, alone or in conjunction with any other information, to identify a specific individual, including any –

(A) name, social security number, date of birth ...

In this case, the Trustee completed a sale of the Debtor’s law firm business to Buyer. The Sale closed on August 4, 2023. As part of the Court’s Sale Order, the Buyer was required to issue a notice compliant with the California Rules of Professional Conduct governing the sale of a law firm and provide all former customers of the Debtor with a 90-day notice to opt-out of the Sale (the “90-day Notice”). Pursuant to the 90-day Notice, former clients of the Debtor had three options: (i) indicate their decision to opt out of the Sale within 90-days of issuance of the 90-day Notice; (ii) affirmatively consent to the Sale by signing a new legal service agreement with Buyer; or (iii) take no action within 90-days of issuance of the 90-day Notice, in which case they would be included in the Sale.

Further, pursuant to the Sale Order, Trustee is required to issue the Notice of Assumption – Consumer Contracts for the purpose of assuming and assigning the Debtor’s former clients who fail to respond within 90-days of the 90-day Notice to Buyer. To that end, Trustee intends to file the Notice of Assumption – Consumer Contracts and provide notice to all of Debtor’s former clients who, as of the date of the Notice of Assumption – Consumer Contracts, had not responded to the 90-day Notice by either (i) opting out or (ii) signing a new legal services agreement with Buyer. Exhibit “A” to the Notice of Assumption – Consumer Contracts will contain the name of those clients as well as the cure amounts, if any.

Here, the name of the consumer clients is “means of identification” within the meaning of 18 U.S.C. § 1028(d)(7)(A). As such, it is a proper subject for a motion to seal pursuant to 11 U.S.C. § 107(c)(1)(A).

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1 Exhibit "A" to the Notice of Assumption – Consumer Contracts contains the names and cure
2 amounts of 76,962 individuals, is voluminous, and would be impossible to redact without substantial
3 and unnecessary attorney or professional time. Moreover, as it is simply a list of names and cure
4 amounts, a redacted version would simply consist of a list of cure amounts and is unlikely to be of any
5 assistance to this Court. Accordingly, the Declaration of Christopher B. Ghio is being submitted
6 concurrently herewith pursuant to Section 5003-2(c) of The Central Guide.

7 Trustee has requested accommodation of the hearing pursuant to Section 9075-1(a) of The
8 Central Guide.

9 **III.**

10 **THE MOTION TO SEAL EXHIBIT "A" SHOULD BE GRANTED**

11 WHEREFORE, the Trustee seeks an order from the Court to permit the Trustee to file the
12 Exhibit "A" to the Notice of Assumption – Consumer Contracts under seal. The Notice of Assumption
13 itself will be filed regularly on the Docket.

14
15 Dated: October 27, 2023

Respectfully submitted,

DINSMORE & SHOHL LLP

17 By: /s/ Christopher B. Ghio

18 CHRISTOPHER B. GHIO

JEREMY B. FREEDMAN

19 Special Counsel to Richard A. Marshack,
20 Chapter 11 Trustee

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

DINSMORE & SHOHL LLP
655 West Broadway, Suite 800
San Diego, California 92101

A true and correct copy of the foregoing document entitled (*specify*): **NOTICE OF MOTION AND MOTION BY CHAPTER 11 TRUSTEE TO FILE EXHIBIT "A" TO THE NOTICE OF ASSUMPTION AND ASSIGNMENT OF CONTRACTS WITH CONSUMER CLIENTS OF THE LITIGATION PRACTICE GROUP, P.C. LISTING ALL CONSUMER CLIENTS UNDER SEAL**

will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF)**: Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On October 27, 2023, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Eric Bensamochan
on behalf of Creditor Affirma, LLC

eric@eblawfirm.us
G63723@notify.cincompass.com

Eric Bensamochan
on behalf of Creditor Oxford Knox, LLC

eric@eblawfirm.us
G63723@notify.cincompass.com

☒ Service information continued on attached page

2. **SERVED BY UNITED STATES MAIL**:

On _____, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

3. **SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on October 27, 2023, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

JUDGE'S COPY - VIA FEDEX

Honorable Scott C. Clarkson
United States Bankruptcy Court, Central District of California
Ronald Reagan Federal Building and Courthouse
411 West Fourth Street, Suite 5130 / Courtroom 5C
Santa Ana, CA 92701-4593

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

October 27, 2023
Date

Nicolette D. Murphy
Printed Name

/s/ *Nicolette D. Murphy*
Signature

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):

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Ronald K Brown on behalf of Creditor SDCO Tustin Executive Center, Inc.	ron@rkbrownlaw.com
Christopher Celentino on behalf of Plaintiff Richard A. Marshack	christopher.celentino@dinsmore.com caron.burke@dinsmore.com
Christopher Celentino on behalf of Trustee Richard A Marshack (TR)	christopher.celentino@dinsmore.com caron.burke@dinsmore.com
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Olivia Scott on behalf of Creditor Hi Bar Capital LLC	olivia.scott3@bclplaw.com
Jonathan Serrano on behalf of Plaintiff Richard A. Marshack	jonathan.serrano@dinsmore.com

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

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